

# INSPECTIONS AND APPEALS DEPARTMENT[481]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 64, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The amendments strike the terms "mental retardation" and "mentally retarded" from the Department's administrative rules and replace them with the terms "intellectually disabled" and "intellectual disabilities," as appropriate. The amendments make corresponding changes in the Department's administrative rules to implement sections 11 through 18 of 2012 Iowa Acts, chapter 1019.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 6, 2013, as **ARC 0599C**. While no comments were received, the Department has made several changes to the noticed amendments, including changing the term "qualified mental retardation professional" to "qualified intellectual disabilities professional." This change is being made to reflect a change in the federal definition of the job description and can be found in new Item 12. Additionally, rule 481—64.59(135C), which was proposed to be amended under Notice of Intended Action, has been rescinded as it is obsolete and no longer relevant.

The State Board of Health reviewed the amendments at its January 9, 2013, meeting, and subsequently approved the amendments at its May 8, 2013, meeting.

These amendments are intended to implement 2012 Iowa Acts, chapter 1019.

The amendments shall become effective July 3, 2013.

The following amendments are adopted.

ITEM 1. Amend **481—Chapter 64**, title, as follows:

### INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED INTELLECTUALLY DISABLED

ITEM 2. Amend rule 481—64.2(135C), introductory paragraph, as follows:

**481—64.2(135C) Variances.** Variances from these rules may be granted by the director of the department of inspections and appeals for good and sufficient reason when the need for variance has been established; no danger to the health, safety, or welfare of any resident results; alternate means are employed or compensating circumstances exist and the variance will apply only to an individual intermediate care facility for the ~~mentally-retarded~~ intellectually disabled. Variances will be reviewed at the discretion of the director of the department of inspections and appeals.

ITEM 3. Amend subrule 64.3(1), introductory paragraph, as follows:

**64.3(1)** Initial application. In order to obtain an initial intermediate care facility for the ~~mentally retarded~~ intellectually disabled license for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled which is currently licensed, the applicant must:

ITEM 4. Amend paragraphs **64.3(1)"d"** and **"e"** as follows:

*d.* Submit a photograph of the front and side elevation of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled;

*e.* Submit the statutory fee for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license;

ITEM 5. Amend subrule 64.3(2), introductory paragraph, as follows:

**64.3(2)** In order to obtain an initial intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license for a facility not currently licensed as an intermediate care facility for the ~~mentally retarded~~ intellectually disabled, the applicant must:

ITEM 6. Amend paragraphs **64.3(2)**“**d**,” “**e**” and “**f**” as follows:

*d.* Submit a floor plan of each floor of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, drawn on 8½- × 11-inch paper showing room areas in proportion, room dimensions, room numbers for all rooms, including bathrooms, and designation of the use to which the rooms will be put and window and door locations;

*e.* Submit a photograph of the front and side elevation of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled;

*f.* Submit the statutory fee for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled;

ITEM 7. Amend subrule 64.3(3), introductory paragraph, as follows:

**64.3(3)** Renewal application. In order to obtain a renewal of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license, the applicant must:

ITEM 8. Amend paragraphs **64.3(3)**“**a**” and “**b**” as follows:

*a.* Submit the completed application form 30 days prior to annual license renewal date of intermediate care facility for the ~~mentally-retarded~~ intellectually disabled license;

*b.* Submit the statutory license fee for an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled with the application for renewal;

ITEM 9. Amend subrule 64.4(3) as follows:

**64.4(3)** The posted license shall accurately reflect the current status of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled. (III)

ITEM 10. Amend subrule 64.4(6) as follows:

**64.4(6)** The facility shall have in effect a transfer agreement with one or more hospitals sufficiently close to the facility to make feasible the transfer between them of residents and their records. (III) Any facility which does not have such an agreement in effect but has attempted in good faith to enter into such an agreement with a hospital shall be considered to have such an agreement so long as it is in the public interest and essential to ensuring intermediate care facility for the ~~mentally-retarded~~ intellectually disabled services for eligible persons in the community.

ITEM 11. Amend rule 481—64.5(135C) as follows:

**481—64.5(135C) Notifications required by the department.** The department shall be notified:

**64.5(1)** Within 48 hours, by letter, any reduction or loss of direct care professional or dietary staff lasting more than seven days which places the staffing ratio of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled below that required for licensing. No additional residents shall be admitted until the minimum staffing requirements are achieved; (III)

**64.5(2)** Of any proposed change in the intermediate care facility for the ~~mentally-retarded~~’s intellectually disabled’s functional operation or addition or deletion of required services; (III)

**64.5(3)** Thirty days before addition, alteration, or new construction is begun in the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, or on the premises; (III)

**64.5(4)** Thirty days in advance of closure of the intermediate care facility for the ~~mentally-retarded~~ intellectually disabled; (III)

**64.5(5)** Within two weeks of any change in administrator; (III)

**64.5(6)** When any change in the category of license is sought; (III)

**64.5(7)** Prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, the licensee shall:

*a.* Inform the department of the pending sale, transfer, assignment, or lease of the facility; (III)

*b.* Inform the department of the name and address of the prospective purchaser, transferee, assignee, or lessee at least 30 days before the sale, transfer, assignment, or lease is completed; (III)

*c.* Submit a written authorization to the department permitting the department to release all information of whatever kind from the department’s files concerning the licensee’s intermediate care

facility for the ~~mentally-retarded~~ intellectually disabled to the named prospective purchaser, transferee, assignee, or lessee. (III)

**64.5(8)** Pursuant to the authorization submitted to the department by the licensee prior to the purchase, transfer, assignment, or lease of an intermediate care facility for the ~~mentally-retarded~~ intellectually disabled, the department shall, upon request, send or give copies of all recent licensure surveys and of any other pertinent information relating to the facility's licensure status to the prospective purchaser, transferee, assignee, or lessee; costs for such copies shall be paid by the prospective purchaser.

ITEM 12. Amend paragraph **64.17(7)“b”** as follows:

*b.* If a resident has a temporary absence from a facility for therapeutic reasons as approved by a physician or qualified ~~mental-retardation~~ intellectual disabilities professional, the facility shall ask if the resident or responsible party wishes that the bed be held open. This request shall be documented in the resident's record, including the response. The bed shall be held open at least 30 days per year, and the facility shall receive payment for the absent periods in accordance with the provisions of the contract. The required holding during temporary absences for therapeutic reasons is limited to 30 days per year. (II)

ITEM 13. Rescind and reserve rule **481—64.59(135C)**.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/29/13.